IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.23608 of 2004

Between:

C. Nabi Rasool, s/o Sirichapala Chinna Yerrappa,
r/o H.No.16/1216, Sreenivasapuram, Tadipatri, Anantapur District.

..... PETITIONER

AND

1 The Executive Engineer, Road and Buildings,
Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur District, Anantapur.
3 The Mandal Revenue Officer, Tadipatri, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order, or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in trying to demolish petitioner's residential house bearing H.No.16/1216, Sreenivasapuram, Tadipatri, Anantapur District as illegal, arbitrary and against to the principles of natural justice and opposed to Art.300-A of the Constitution of India.

Counsel for the Petitioner: MR.N.PARAMESWARA REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

ORDER:

By this writ petition the petitioner seeks to challenge the proposed action of the respondents in trying to demolish his house bearing H.No.16/1216 (Old No.16/317) situated at Sreenivasapuram, Tadipatri, Anantapur District, as illegal and violative of judgments of this Court.

The case of the petitioner is that he inherited the property in question through a registered Will dated 14.05.1981 from his adopted father. It is stated that his building is situated by the side of Railway Feeder Road, which leads from Kadapa to Bellary. The grievance of the petitioner is that though there is sufficient place for widening the road on the northern side, the respondents without giving any notice and without following due process of law marked his building up to 18 feet for demolishing the same for the purpose of widening the road. The petitioner complained that the action of the respondents is contrary to the Division Bench Judgment of this Court in W.P. No.21198 of 1997 and Batch dated 3-2-1998. Assailing the impugned action of the respondents, the petitioner filed the present writ petition.

Heard the learned counsel for petitioner and learned Government Pleader appearing for the respondents.

The learned Government Pleader for respondents submitted that on apprehension only the petitioner filed the present writ petition, and that the respondents are following due process of law before acquiring any land or before demolishing any structures for the purpose of road widening.

The Division Bench dealing with large number of cases where for the purpose of road widening, the Revenue, Panchayat Raj and Municipal authorities sought to demolish the houses or structures abutting the road, issued certain guidelines which

are as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Learned Government Pleader appearing for the respondents, does not dispute the legal position. Both counsel agreed for disposal of the writ petition at the admission stage.

Accordingly, the writ petition is disposed of directing the respondents to follow the guidelines issued in the above mentioned judgment, in respect of the acquisition/demolition of the property in question. Till the guidelines are complied with, status quo obtaining as on today with respect to the property in question shall continue to be maintained. No costs.

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(N.V. RAMANA, J)

Date: 20-12-2004

Nsr/Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Executive Engineer, Road and Buildings,
Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur District, Anantapur.
3 The Mandal Revenue Officer, Tadipatri, Anantapur District.

4 Two CCs to GP for Revenue, High Court of AP, Hyderabad (OUT)

5 Two CD copies.